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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,560	09/17/2003	Howard Thomas Deason	9364	4599
27752	7590	01/11/2007	EXAMINER	
THE PROCTER & GAMBLE COMPANY			GRAY, JILL M	
INTELLECTUAL PROPERTY DIVISION			ART UNIT	PAPER NUMBER
WINTON HILL BUSINESS CENTER - BOX 161			1774	
6110 CENTER HILL AVENUE				
CINCINNATI, OH 45224				
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE		DELIVERY MODE	
3 MONTHS	01/11/2007		PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/664,560	DEASON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jill M. Gray	1774	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 09 October 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 16-27 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-15 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of Group I, claims 1-15 in the reply filed on October 9, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

More specifically, in claim 3, the language of "fibrous structure is tail sealed" is indefinite because it is not clear what constitutes being "tail sealed". It is not clear if this language refers to the tail being sealed to the fibrous structure or if there is a sealant applied solely to the tail portion of the fibrous structure.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5, 10-12, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Hartbauer et al, 3,960,272 and 3,912,571 (Hartbauer).

Hartbauer teaches a multi-ply product of the type contemplated by applicants, comprising a multi-ply fibrous structure having a core end and a tail, wherein the tail of the multi-ply fibrous structure comprises a consumer accessible tab, as required by claim 1. See Figures 11-15. In addition, Hartbauer teaches that the multi-ply fibrous structure is freely convolutedly wound from the core end out to the tail end to form a rolled multi-ply product, the tail is sealed to the fibrous structure with the consumer accessible tab more proximal to the tail end, and that said tab comprises at least two plies bonded together, as required by claims 2-5. Regarding claims 10-11, the consumer accessible tab of Hartbauer extends from about the tail end of the fibrous structure along the fibrous structure towards the core end of the multi-ply fibrous structure. Regarding claim 12, Hartbauer specifically teaches that his fibrous structure can be a multi-ply fibrous structure. Accordingly, the examiner has reason to believe that the at least two plies of the multi-ply fibrous structure are bonded together by mechanical and/or chemical and/or electrostatic forces. As to claim 15, Hartbauer teaches that the multi-ply fibrous structure can be a sanitary tissue product. See '272 column 12, line 50 and '571, column 12, line 52.

Accordingly, the teachings of Hartbauer anticipate the invention as claimed in present claims 1-5, 10-12, and 15.

6. Claims 1-2, 5, 10-12, and 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Howard et al, 4,331,324 (Howard).

Howard teaches a multi-ply product comprising a multi-ply fibrous structure having a core end and a tail, wherein the tail comprises a consumer accessible tab and wherein the multi-ply fibrous structure is freely and convolutedly wound from the core end out to the tail end to form a rolled multi-ply product, as required by claims 1 and 2, and comprises at least two plies of the multi-ply fibrous structure, per claims 5 and 14. In addition, Howard teaches that the multi-ply fibrous structure comprises a sanitary tissue product and that the consumer accessible tabs extend from the tail end of the multi-ply fibrous structure along the multi-ply fibrous structure towards the core end of the multi-ply fibrous structure, as contemplated by applicants in claims 10-11 and 15. See abstract, column 2, lines 38-40 and Figures 1 and 3.

Therefore, the teachings of Howard anticipate the invention as claimed in present claims 1-2, 5, 10-12, and 14-15.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 6-9 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartbauer et al, 3,912,571 and 3,960,272 (Hartbauer) or Howard et al, 4,332,324 (Howard) each as applied above, and in view of Schulz 4,803,032.

Hartbauer and Howard are each as set forth above, but do not teach that the plies are bonded together in the cross machine direction or machine direction. Schulz teaches toilet tissue rolls embossed in the cross machine direction and machine direction. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the multi-ply product of Hartbauer by embossing the fibrous structures of Hartbauer in the machine direction or cross machine direction as taught by Schulz to improve absorbency and softness and appearance. Regarding claims 8 and 9, it would have been obvious to bond the plies together using a water soluble adhesive to enhance degradation of the multi-ply fibrous structures after use, particularly when used as products such as toilet paper.

Therefore, the combined teachings of Hartbauer or Howard, in view of Schulz would have rendered obvious the invention as claimed in present claims 6-9 and 13.

No claims are allowed.

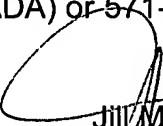
### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jill M. Gray whose telephone number is 571-272-1524. The examiner can normally be reached on M-Th and alternate Fridays 10:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jill M. Gray  
Primary Examiner  
Art Unit 1774

jmg